

Washington Horse Racing Commission  
Meeting Minutes  
February 12, 2009

Meeting convened at 9:30 A.M.

Present were: Paul George, Chairman; Jeff Colliton, Commissioner; Dr. Bud Hallowell, Commissioner; Hartly Kruger, Commissioner; Marta DeLeon, Assistant Attorney General; Robert J. Lopez, Executive Secretary; Patty Sorby, Confidential Secretary.

Item #1. Approval of the meeting minutes of January 8, 2009.

Commissioner Colliton moved to approve the minutes. Commissioner Kruger seconded the motion.

Commissioner Hallowell requested a change to page 2, second paragraph from “entertainment dollars” to “gambling dollars” in two places within the paragraph.

Commissioner Colliton amended his motion to include the two changes. Commissioner Kruger seconded the motion. Unanimously approved.

Item #2. Commissioner’s report.

Chairman George said he didn’t have much to report other than following various bills in the legislature.

Commissioner Colliton said he’d spoken with Ted Patterson regarding Dayton race meet and the association had acquired \$65,000 whether it was to fix the grandstand or allow them to set up some type of tent covering for their meet he was uncertain. Mr. Patterson said Dayton was planning to conduct their meet in Dayton, not in Waitsburg as was suggested at the last meeting.

Commissioner Hallowell and Commissioner Kruger had nothing to report.

Item #3. Emerald Downs’ report.

Mr. Ron Crockett, President, NW Racing Associates LP, Emerald Downs, provided three handouts to the Commission. One handout showed handle recap through February 8, 2009, comparing handle in 2007 vs. 2008 and 2008 vs. 2009 showing it to be down \$33,666 per day (8.53%). The purse fund figure was also down \$319,661 (15.2%). Mr. Crockett said with the economy as it is, there are less spendable dollars and Emerald Downs will not be able to offer the same purse prices as in 2008.

In another handout, Mr. Crockett commented on the bill (SB 5589) to merge the Horse Racing Commission with the Gambling Commission, he had information that it is “dead on arrival” and the two Commission’s would not be merging. Several of the industry stakeholders had testified at the hearing against it.

Mr. Crockett said there won't be a cash reserve with the budget he is working on for Emerald Downs, but is still feeling relatively positive for this year's meet and said there will be changes and prices will be increasing in some areas.

The last handout, Mr. Crockett gave the Commissioners a copy of an email response by Susie Sourwine, Marketing Director, Emerald Downs, to an article regarding the elimination of the Horse Racing Commission and why it should not be done.

Item #4. Emerald Downs' request for handicapping contests.

Mr. Robert Lopez presented the request to the Commissioners. Mr. Lopez said there are two contests offered one on March 14, 2009 and the other on July 26, 2009, in reviewing the rules and regulations, the requirements were addressed. Mr. Lopez recommended approval.

Adrian Buchin, new Marketing Director for Emerald Downs answered questions from the Commissioners.

Chairman George moved to approve the contest to be held on March 14, 2009 and the contest to be held on July 26, 2009. Commissioner Hallowell seconded the motion. Unanimously approved.

Item #5. Senate Bill 5589.

Mr. Lopez expanded on Mr. Crockett's comments regarding SB 5589 and explained the purpose of the bill is to merge the WHRC with the Gambling Commission. Mr. Lopez said he had testified neutrally on the bill as the Commissioners hadn't had the opportunity to meet to give him advice on a position regarding the bill. Mr. Lopez had copied several items regarding legislation that might affect the WHRC for the Commissioners information.

Commissioner Colliton moved to oppose senate bill 5589. Commissioner Kruger seconded the motion. Unanimously approved.

Item #6. Final report on WSU grant: "An Evaluation of a New Surgical Treatment for Desmitis of the Proximal Insertion of the suspensory Ligament in Horses."

Dr. Robert Schneider, DVM, MS, Diplomate ACVS, Professor, Washington State University, College of Veterinary Medicine, presented to the WHRC a final report on the research project funded by the WHRC. Dr. Schneider presented a power point presentation showing results that a surgical treatment for lameness in the suspensory ligament in horses showed no significant change in relation to resting the injury. He did feel though that this type of research project was of great assistance to them scientifically by discovering that surgery on the injury was not any more significant than resting the injury.

Dr. Schneider also said some of the data had not been completed and a written report would be prepared and sent to the WHRC and this would be the final report on the project.

BREAK 10:50 A.M. RECONVENED 11:00 A.M.

Item #7. Emerald Downs 2009 race meet officials.

Mr. Lopez presented the 2009 Emerald Downs pre-meet information to the Commissioners and said the information contained in the packet is similar to last year's submission and recommended approval.

Commissioner Kruger moved to approve the 2009 Emerald Downs race meet officials as submitted. Commissioner Colliton seconded the motion. Unanimously approved.

Item #8. WHRC Emerald Downs 2009 race meet officials.

Mr. Lopez said the WHRC officials are the same as last year and recommended approval.

Commissioner Kruger moved to approve the WHRC 2009 meet officials as submitted. Chairman George seconded the motion. Unanimously approved.

Item #9. ~~Dayton Race Meet.~~ This item was placed on the agenda in the case that Dayton Days would have to move their meet to Waitsburg due to a problem with the grandstand at Dayton. This issue was resolved and removed from the agenda.

Item #10. Class C 2009 officials.

Mr. Lopez said the Class C race meets were asking for nineteen days of live racing beginning at Kennewick's Sun Downs race meet on April 4 racing every Saturday and Sunday through May 3; Spring meet at Walla Walla May 9 and 10 ending with the fall meet on September 4, 5 and 6; Waitsburg Days of Real Sport on May 16 and 17 and Dayton Days on May 23 and 24, 2009. Mr. Lopez said the officials for the 2009 Class C race meets were the same as submitted in 2008 and recommended approval.

Chairman George asked about the tote system that will be used at the Class C meets. Shorty Martin speaking for the Class C associations stated the same tote company will be used throughout all four meets.

Commissioner Kruger moved to approve the nineteen live race dates requested and the meet officials for Sun Downs, Walla Walla Spring and Fall meets, Waitsburg Days of Real Sport and Dayton Days. Commissioner Colliton seconded the motion. Unanimously approved.

Item #11. WHRC Class C 2009 race meet officials.

Mr. Lopez said the Class C 2009 WHRC officials will be the same as last year and recommended approval.

Commissioner Colliton moved to approve the WHRC Class C race meet officials as submitted. Commissioner Hollowell seconded the motion. Unanimously approved.

Item #12. Rules of Racing – Adoption Hearing:

a. WAC 260-40-100 Performance records.

Doug Moore, WHRC Presiding Steward explained that WAC 260-40-100 addressed two separate issues; performance records and the affects of wins, including maiden wins at Class C race meets.

Staff was proposing to amend WAC 260-40-100 to address only performance records; and adopt a new section WAC 260-40-155 to address the affects of wins at Class C race meets on eligibility.

In working with the officials at the Oregon Racing Commission, a reciprocal agreement was worked out that would change what would count against eligibility at the Class C meets. With the exception of a maiden win counting against eligibility at Class A and B tracks, other races won at Class C meets would not count against eligibility when racing at Oregon fair meets.

Public comment had been received and included. Staff recommended approval.

Commissioner Kruger moved to amend WAC 260-40-100 regarding performance records and adopt new section WAC 260-40-155 regarding eligibility. Commissioner Hollowell seconded the motion. Unanimously approved.

b. WAC 260-70-675 Bicarbonate testing. TABLED.

c. WAC 260-84-060 Penalty matrixes and WAC 260-84-065 Drug and alcohol penalties.

Mr. Moore said the purpose to amend WAC 260-84-060 penalty matrixes was to clarify and ensure consistency at all facilities regarding: entering ineligible horses or unauthorized late scratches; failure to deliver Furosemide treatment forms; failure to obtain permission for equipment changes; failure to report performance records; using improper, profane, or indecent language; and possession or use of a stimulating device by adding immediate ejection from the grounds.

Mr. Moore explained the amendment to WAC 260-84-065 regarding licensees – drug and alcohol violations was to add the penalties for persons under the influence on horseback to address the new section minimum concentration amount adopted at the January meeting.

Public comment had been received and included. Staff recommended approval.

Commissioner Colliton moved to adopt the amendments to WAC 260-84-060 and WAC 260-84-065. Commissioner Kruger seconded the motion. Unanimously approved.

Item #13. Hearing before the Commission:

a. Robert Lee Gutierrez.

Chairman George opened the hearing at 11:30 A.M., and introduced those present. Mr. Gutierrez was present and not represented by counsel. Robert Lopez, Executive Secretary represented staff. Mr. Lopez recapped the previous hearing before the WHRC on October 8, 2008 wherein it was recommended that Mr. Gutierrez provide adequate proof of his sobriety and return back before the WHRC at the February 12, 2009 meeting. Mr. Lopez stated Mr. Gutierrez had complied with the request and provided proof. Mr. Lopez recommended the WHRC not grant his request for a 2008 license, affirm the denial by the Board of Stewards and allow Mr. Gutierrez to apply for a 2009 exercise rider and owner license with conditions.

Chairman George concluded the hearing. It was determined that Mr. Gutierrez had complied with the request of the WHRC and granted him the ability to apply for an exercise rider and owner license with conditions.

Hearing closed 11:45 A.M.

Item #14. TOBA testing – 2009 Drug Testing Protocol.

Mr. Lopez for the Commissioners information provided the American Graded Stakes Committee's revised drug testing protocol and list for 2009. Mr. Lopez said the WHRC will comply and the only race affected is the Longacres Mile.

Item #15. Executive Secretary's report:

Mr. Lopez briefed the Commissioners on the agency request legislation to allow the WHRC to distribute breeder awards and he said it was moving forward in the process. He also apprised the Commissioners on SB 5125 that would freeze hiring, freeze exempt employee salaries and institute a contracting freeze. He said he had been assured by the Office of Financial Management that the WHRC would be allowed to hire seasonal employees by making application to Victor Moore, Director of the Office of Financial Management.

Mr. Lopez provided a draft copy of the WHRC, Washington State Quality Award that is required by each agency to complete. Mr. Lopez asked the Commissioners to look over the application and give any suggestions or changes to him at the March 12, 2009.

Mr. Lopez said the State Auditor's Office had begun their audit of the agency accounts for June 1, 2006 through June 30, 2008 on February 1<sup>st</sup> and hopes to be completed by February 28, 2009. The scope of the audit will be looking at WHRC public meetings and minutes, asset management, personal service contracts, licensing fees, grant monitoring and disbursements.

Mr. Lopez explained the accountant's comparison of the January 2008/2009 revenues by current month, calendar year, and a recap of the source market fees collected.

Mr. Lopez explained the 2007/2009 biennial budget revenues, expenditures and fund balance.

Mr. Lopez provided a spreadsheet regarding WHRC revenue and expenditure forecast projections for an 8 percent scenario and an 11 percent scenario.

Mr. Lopez provided the costs for the MRI necropsy program. Mr. Jack Hodge, VP, Emerald Downs said this was an invaluable program and suggested Commissioner Hallowell, Dr. Sally Calkins, Bob Lopez, WSU and himself get together and discuss the program before any changes are made to the program.

Mr. Lopez notified the Commissioners of the sale of TVG advance deposit wagering firm to ODS Technologies, LP. Susie Sourwine said this was a fiscally sound company and had the Royal Seal of Approval in Britain. Her thoughts were that this is good for the industry.

Item #16. Any other business that may be properly brought before the Commission.

MaryAnn O'Connell, Executive Director, WA Horsemen's Benevolent & Protective Association thanked Mr. Lopez for tabling the rule amendment for TCO<sub>2</sub> testing.

Susie Sourwine updated the Commissioners on the Prodigious Fund regarding now accepting applications for grants from the fund. She also commented about having the ability in the near future through accessing the WHRC webpage to view rulings against participants by the public.

Commissioner Colliton asked Mr. Hodge how many horses were on the grounds at Emerald Downs and Mr. Hodge said approximately 588 and he said is more than at this time last year.

Commissioner Colliton asked about the issue regarding WHRC employees working during off-season. Mr. Lopez said it is still being researched.

Meeting adjourned at 12:27 P.M.

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Robert J. Lopez, Executive Secretary